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5 UNITED STATES DISTRICT COURT
6 SOUTHERN DISTRICT OF CALIFORNIA
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8 IN RE PORTFOLIO RECOVERY
9 ASSOCIATES, LLC, TELEPHONE
10 CONSUMER PROTECTION ACT
11 LITIGATION

12 Case No.: 11md02295 JAH - BGS
13 Member cases:
14 All member cases

15 **ORDER GRANTING DEFENDANT'S
16 UNOPPOSED MOTION TO STAY
17 [Doc. No. 793]**

18 Defendant seeks an order staying the action pending the United States Supreme
19 Court's decision in Facebook, Inc. v. Duguid, No. 19-511, 2020 WL 3865252 (2020) which
20 challenges the Ninth Circuit's interpretation of "automatic telephone dialing system"
21 ("ATDS") as found in the Telephone Consumer Protection Act ("TCPA"). Defendant
22 maintains the Supreme Court will review "[w]hether the definition of ATDS in the TCPA
23 encompasses any device that can 'store' and 'automatically dial' telephone numbers, even
24 if the device does not 'us[e] a random or sequential number generator.'" Motion ¶ 2 (citing
25 "Petition for Writ of Certiorari at ii, Facebook, Inc., No. 19-511 (U.S. Oct. 17, 2019)).
26 Defendant contends the Supreme Court's review is expected to clarify the law pertaining
27 to TCPA claims such as Plaintiffs' claims against Defendant. Additionally, Defendant
28 contends the balance of interests weighs in favor of a stay because it will be limited in
duration, promote judicial economy, and simplify the issues to be resolved in this action.

1 Plaintiff does not oppose the motion.
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1 A court has the inherent authority to stay an action pursuant to its power to control
2 its own docket. Landis v. North American Co., 299 U.S. 248, 254-55, (1936); Leyva v.
3 Certified Growers, Ltd., 593 F.2d 857, 864 (9th Cir. 1979). It may stay a case “pending
4 resolution of independent proceedings which bear upon the case,” even if those
5 proceedings are not “necessarily controlling of the action before the court.” Leyva, 593
6 F.2d at 863–64. When determining whether to stay an action, courts must weigh competing
7 interests that will be affected by the granting or refusal to grant a stay. CMAX, Inc. v.
8 Hall, 300 F.2d 265, 268 (9th Cir. 1962). “Among these competing interests are the possible
9 damage which may result from the granting of a stay, the hardship or inequity which a
10 party may suffer in being required to go forward, and the orderly course of justice measured
11 in terms of the simplifying or complicating of issues, proof, and questions of law which
12 could be expected to result from a stay.” Id. (citing Landis, 299 U.S. at 254–55).

13 Defendant demonstrates the ruling in the Supreme Court action will simplify this
14 matter in that it bears upon the main issue pending before this Court. Plaintiffs' non-
15 opposition to the motion further supports the interests here weigh in favor of a stay of the
16 proceedings.

17 | Accordingly, IT IS HEREBY ORDERED:

18 1. Defendant's unopposed motion to stay (Doc. No. 793) is **GRANTED**;

19 2. The parties shall file a joint status report **within fourteen (14) days** of the Supreme

20 Court's decision;

21 3. Defendant's previously filed motions to stay (Doc. Nos. 737, 777) are **DENIED** as

22 moot.

23 | DATED: July 27, 2020


John A. Houston
United States District Judge